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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/007,338	SYED, MAJID
	Examiner	Art Unit	
	Philip C. Lee	2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>20 September 2007</u>.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-36,39,40 and 65-89* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-36,39,40 and 65-89* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

1.   This action is responsive to the amendment and remarks filed on September 20, 2007.

2.   A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant to

37 CFR 1.114. Applicant's submission filed on 9/20/07 has been entered.

3.   Claims 1-36, 39-40, and 65-89 are presented for examination.

4.   The text of those sections of Title 35, U.S. code not included in this office action can be

found in a prior office action.

Claim Rejections – 35 USC 112

3.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the
> subject matter which the applicant regards as his invention.

4.   Claims 39-40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for

failing to particularly point out and distinctly claim the subject matter which applicant regards as

the invention.

    a.   Claim language in the following claims is not clearly understood:

      i.   As per claims 39 (line 4) and 40 (line 4), the scope and metes and bounds

are indefinite. Since the phrase "being adapted to" is not a requirement that it is

performed, therefore it renders the body of the claim moot.

Claim Rejections – 35 USC 101

5.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6.   Claims 1-25 are rejected under 35 U.S.C. 101 because "A gateway" is lacking the

necessary structural/mechanical element to be a gateway (i.e., hardware machine) as claim

appears to directed solely to processes/software elements. A gateway comprising software

elements are considered as program per se, which is not one of the categories of statutory subject

matter.

7.   Claims 39-40 are rejected under 35 U.S.C. 101 because "An article of manufacture

comprising a computer usable medium" includes the scope of non statutory subject matter of

computer usable medium such as paper, which is not one of the categories of statutory subject

matter.

8.   Claims 66-89 are rejected under 35 U.S.C. 101 because "A system" is lacking the

necessary structural/mechanical element to be a system (i.e., hardware machine) as claim appears

to directed solely to processes/software elements. A system comprising software elements are

considered as program per se, which is not one of the categories of statutory subject matter.

Claim Rejections – 35 USC 103

9.   Claims 1, 8, 13-14, 18, 21-23, 25, 66, 73, 78-79, 83, 86-87, and 89 are rejected under 35

U.S.C. 103(a) as being unpatentable over Pyhalammi et al, U.S. Patent Application Publication

2006/0073810 (hereinafter Pyhalammi) in view of Corts et al, U.S. Patent Application

Publication 2002/0095228 (hereinafter Corts).

10.   Pyhalammi and Corts were cited in the last office action.

11.   As per claim 1, Pyhalammi taught the invention substantially as claimed comprising:

a network inbound queue (36, fig. 3) for the reception of instructions related to data

content (page 3, paragraph 23);

a scheduler for processing said instructions to determine broadcast times and schedule for

said data content (page 3, paragraphs 24 and 25) (delivery class information) to be

received by a receiver of a user (page 3, paragraph 25), said scheduler determining said

broadcast times and schedule without user-selected input regarding transmission priority

or delivery instructions (page 3, paragraph 25) (auto-selected delivery class information);

an addressing module for processing said instructions for extracting addressing

information (page 3, paragraph 26); and

an outbound queue (36, fig. 3)for storing said encoded data content (pages 3-4,

paragraph 27).

12.   Pyhalammi did not teach data processor for encoding data and a receiver is a digital radio

broadcast receiver. Corts taught a digital radio broadcast receiver ([0021]) and a processor for

encoding said data content for digital radio broadcast transmission ([0197], [0275], [0285]).

13.   It would have been obvious to one having ordinary skill in the art at the time of the

invention was made to combine the teachings of Pyhalammi and Corts because Corts's teaching

of data processor for encoding data would allow Pyhalammi's system to utilize In-Band On-

Channel (IBOC) technology to broadcast digitized data along with the digital audio to wireless

devices.

14.   As per claim 66, Pyhalammi and Corts taught the invention substantially as claimed in

claim 1 above. Pyhalammi further taught a content provider center (11, fig. 2) configured to

communicate with an application service provider (13, fig. 2), said content provider center

configured to process instructions from said application service provider for processing said data

content (page 3, paragraphs 23 and 24).

15.   As per claims 8 and 73, Pyhalammi and Corts taught the invention substantially as

claimed in claims 1 and 66 above. Pyhalammi further taught a bandwidth module for bandwidth

management, said bandwidth module maintaining queues and prioritizing flows per quality of

service (QoS) traffic attributes while managing resources (page 3, paragraph 26).

16.   As per claims 13-14 and 78-79, Pyhalammi and Corts taught the invention substantially

as claimed in claims 1 and 66 above. Pyhalammi further taught a unique identifier, said

identifier used in targeting said transmitted data content to a specific user agent (page 3,

paragraph 26), and said identifier is an URI or a numeric value (page 3, paragraph 26).

17.   As per claims 18, 25, 83, and 89, Pyhalammi and Corts taught the invention substantially

as claimed in claims 1 and 66 above. Corts further taught data content is in any of the following

formats: binary, plain text, HTML, XML, WML (fig. 1, i.e., binary signal broadcast across

airwave), and wherein said encoded data content is in a digital broadcasting format suitable for

reception via a digital consumer radio receiver (fig. 1, [0021]).

18.   It would have been obvious to one having ordinary skill in the art at the time of the

invention was made to combine the teachings of Pyhalammi and Corts for the same reason as

claim 1 above.

19.   As per claims 21 and 86, Pyhalammi and Corts taught the invention substantially as

claimed in claims 1 and 66 above. Pyhalammi further taught instructions include any of the

following: time at which transmission is to commence, time at which transmission is to cease, or

rate at which data content to be transmitted needs to be repeated (page 2, paragraph 18).

20.   As per claim 22, Pyhalammi and Corts taught the invention substantially as claimed in

claim 1 above. Corts further taught said gateway receives data content over a network (fig. 3;

page 3, paragraph 23).

21.   It would have been obvious to one having ordinary skill in the art at the time of the

invention was made to combine the teachings of Pyhalammi and Corts for the same reason set

forth in claim 1 above.

22.   As per claims 23 and 87, Pyhalammi and Corts taught the invention substantially as

claimed in claims 22 and 66 above. Pyhalammi further taught said network comprises any of the

following: local area network, wide area network, wireless network, or Internet (abstract).

23.   Claims 5, 15-16, 20, 26, 39, 65, 80-81, and 85 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Pyhalammi and Corts in view of Garrity et al, U.S. Patent 6,745,237

(hereinafter Garrity).

24.   Garrity was cited in the last office action.

25.   As per claim 5, Pyhalammi and Corts taught the invention substantially as claimed as in

claim 1 above. Pyhalammi and Corts did not teach an authenticator. Garrity taught an

authenticator for authenticating a sender of said instructions (col. 4, lines 46-49).

26.   It would have been obvious to one having ordinary skill in the art at the time of the

invention was made to combine the teachings of Pyhalammi, Corts, and Garrity because

Garrity's teaching would increase the security of Pyhalammi's and Corts's systems to prevent

unauthorized sender to utilize their systems.

27.   As per claims 15 and 80, Pyhalammi and Corts taught the invention substantially as

claimed in claims 1 and 66 above. Corts further taught a data transformer and a data encoder

(IBOC encoding device is considered as both a transformer and encoder), said data transformer

converting said data content into a specific format ([0197], [285], [348]), however, Pyhalammi

and Corts did not explicitly teach encapsulating data content. Garrity taught a data encoder

encapsulating said extracted data content in a specific format (530, 532, fig. 5; col. 8, lines 20-

30).

28.   It would have been obvious to one having ordinary skill in the art at the time of the

invention was made to combine the teachings of Pyhalammi, Corts, and Garrity because

Garrity's teaching would increase the flexibility of Pyhalammi's and Corts's systems by

allowing data to be formatted according to a particular protocol for communication with other

entities.

29. As per claims 16 and 81, Pyhalammi, Corts, and Garrity taught the invention

substantially as claimed in claims 15 and 80 above. Pyhalammi, Corts, and Garrity did not

explicitly teach Turbo Broadcast Layer (TBL) encoder. It would have been obvious to one

having ordinary skill in the art at the time of the invention was made to include a TBL encoder or

any type of encoder because by doing so it would increase the flexibility of their system by

allowing data to be converted to different formats using different type of encoder.

30. As per claims 20 and 85, Pyhalammi and Corts taught the invention substantially as

claimed in claims 1 and 66 above. Pyhalammi and Corts did not teach synchronized scheduling.

Garrity taught wherein said gateway is networked for synchronized scheduling with one or more

similar gateways (fig. 2; col. 3, lines 62-65).

31. It would have been obvious to one having ordinary skill in the art at the time of the

invention was made to combine the teachings of Pyhalammi, Corts, and Garrity because

Garrity's teach of synchronized scheduling would enhance Pyhalammi's and Corts's systems by

allowing data to be transmitted to a user in the proper sequence.

32. As per claims 26, 39, and 65, Pyhalammi taught the invention substantially as claimed

comprising:

receiving instructions from a content provider relating to broadcast of data content (page

3, paragraph 23);

processing said instructions to determine broadcast times for said data content (page 3,

paragraphs 24 and 25) to be received by a receiver of a user (page 3, paragraph 25), the

broadcast times being determined without user-selected input regarding transmission

priority or delivery instructions (page 3, paragraph 25);

receiving said data content via a network (page 3, paragraph 23, fig. 3);

storing said encoded data content (pages 3-4, paragraph 27).

33.   Pyhalammi did not teach encoding data and a digital radio broadcast receiver. Corts

taught a digital radio broadcast receiver ([0021) and encoding said data content for digital radio

broadcast transmission ([0197], [0275], [0285]).

34.   It would have been obvious to one having ordinary skill in the art at the time of the

invention was made to combine the teachings of Pyhalammi and Corts because Corts's teaching

of data processor for encoding data would allow Pyhalammi's system to utilize In-Band On-

Channel (IBOC) technology to broadcast digitized data along with the digital audio to wireless

devices.

35.   Pyhalammi and Corts did not teach authenticating said content provider. Garrity taught

authenticating said content provider (col. 4, lines 46-49).

36.   It would have been obvious to one having ordinary skill in the art at the time of the

invention was made to combine the teachings of Pyhalammi, Corts, and Garrity because

Garrity's teaching would increase the security of Pyhalammi's and Corts's systems to prevent

unauthorized sender to utilize their systems.

37.   Claims 2, 3, and 67-68 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Pyhalammi and Corts in view of Miller, U.S. Patent Application Publication 2003/0055977

(hereinafter Miller).

38.   Miller was cited in the last office action.

39.   As per claims 2 and 67, although Corts taught IBOC enabled devices ([0021]), however,

Pyhalammi and Corts did not teach profile defining specific data content formats. Miller taught

a device profile database holding profile associated with consumer devices, and each of said

profile defining one or more specific data content formats for said transmission (page 4,

paragraph 36).

40.   It would have been obvious to one having ordinary skill in the art at the time of the

invention was made to combine the teachings of Pyhalammi, Corts, and Miller because Miller's

teaching of device profiles would increase the alertness of their system by providing profiles

information regarding data format and modality that are compatible with the device of the

profile.

41.   As per claims 3 and 68, Pyhalammi, Corts and Miller taught the invention substantially as

claimed as in claims 2 and 67 above. Although, Miller taught identifying said one or more

specific data content formats associated with one or more specific clients (page 4, paragraph 36),

however, Miller did not explicitly teach a request for identifying data content formats. It would

have been obvious to one having ordinary skill in the art at the time of the invention was made to

include a request for identifying data content format associated with the clients because by doing

so it would increase the alertness of their system by providing profiles information regarding

data format and modality that are compatible with the device of the profile.

42.   Claims 4 and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Pyhalammi and Corts in view of Hirayama, U.S. Patent Application Publication 2006/0069718

(hereinafter Hirayama).

43.   As per claims 4 and 69, Pyhalammi and Corts taught the invention substantially as

claimed as in claims 1 and 66 above. Pyhalammi and Corts did not teach unique ID associated

with sender. Hirayama taught a identification (ID) processor for extracting a unique ID

associated with sender of said received instructions, assigning a unique ID associated with

broadcast transmissions, and storing said unique ID associated with the sender of said

instructions and said unique ID associated with broadcast transmissions ([0136], [0146], fig. 12)

44.   It would have been obvious to one having ordinary skill in the art at the time of the

invention was made to combine the teachings of Pyhalammi, Corts and Hirayama because

Hirayama's teaching of unique ID associated with sender would increase the alertness of

Pyhalammi's and Corts's systems by allowing the push initiator to be determined according to

the identifier embedded in the message.

45.   Pyhalammi, Corts, and Hirayama's did not explicitly teach push transmissions. It would

have been obvious to one having ordinary skill in the art at the time of the invention was made

that broadcasting can includes push transmission, hence the a unique ID associated with

broadcast will be ID associated with push transmission, in order to allow data to be broadcast to

user without user request.

46.   Claims 9 and 74 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Pyhalammi and Corts in view of Kadyk et al, U.S. Patent 7,046,691 (hereinafter Kadyk).

47.   Kadyk was cited in the last office action.

48.   As per claims 9 and 74, Pyhalammi and Corts taught the invention substantially as

claimed in claims 8 and 73 above. Pyhalammi and Corts did not teach active queues and a

passive queues. Kadyk taught an active queue storing data content currently being transmitted

(250, fig. 2; col. 9, line 50-col. 10, line 3) and a passive queue storing pushed and pulled data

content (230, fig. 2; col. 8, lines 38-45).

49.   It would have been obvious to one having ordinary skill in the art at the time of the

invention was made to combine the teachings of Pyhalammi, Corts, and Kadyk because Kadyk

teaching of active queue and passive queue would increase the flexibility of Pyhalammi's and

Corts's system by allowing the system to read the message from the queue when the system is

ready to process a new message (col. 8, lines 40-45).

50.   Claims 10, 17, 24, 75, 82, and 88 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Pyhalammi and Corts in view of Official Notice.

51.   As per claims 10 and 75, Pyhalammi and Corts taught the invention substantially as

claimed in claims 1 and 66 above. Pyhalammi and Corts did not teach a cache. "Official

Notice" is taken for the concept of a cache for holding data content to be broadcast is known and

accepted in the art. It would have been obvious to one having ordinary skill in the art at the time

of the invention was made to include a cache because by doing so it would increase the

efficiency of their system by allowing frequently requested data to be stored and quickly

accessed.

52.   As per claims 17 and 82, Pyhalammi and Corts taught the invention substantially as

claimed in claims 1 and 66 above. Pyhalammi and Corts did not teach different protocols.

"Official Notice" is taken for the concept of point-to-point protocol (PPP), hypertext transfer

protocol (HTTP), or wireless access protocol, are well known in the art. It would have been

obvious to one having ordinary skill in the art at the time of the invention was made to include

different protocol such as HTTP because by doing so it would increase the functionality of their

system by allowing browsers to requests webpage from web server on the Internet.

53.   As per claims 24 and 88, Pyhalammi and Corts taught the invention substantially as

claimed in claims 1 and 66 above. Pyhalammi and Corts did not teach a network database

identifying other databases. "Official Notice" is taken for the concept of network database such

as Domain Name System (DNS) server identifying other databases is known and accepted in the

art. It would have been obvious to one having ordinary skill in the art at the time of the

invention was made to include network database such as Domain Name System (DNS) server

because by doing so it would increase the alertness of their systems by providing Internet

Protocol address in response to domain name query.

54.   Claims 11 and 76 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Pyhalammi and Corts in view of Marlow, U.S. Patent Application Publication 2003/0046670

(hereinafter Marlow).

55.   Marlow was cited in the last office action.

56.   As per claims 11 and 76, Pyhalammi and Corts taught the invention substantially as

claimed in claims 1 and 66 above. Pyhalammi and Corts did not teach precompiled binary data.

Marlow taught precompiled binary data for transmission (page 3, paragraph 36).

57.   It would have been obvious to one having ordinary skill in the art at the time of the

invention was made to combine the teachings of Pyhalammi, Corts, and Marlow because

Marlow's teaching of precompiled binary data for transmission would increase the user

flexibility of Pyhalammi's and Corts's systems by data to be transformed to values appropriate

for viewing by the user at a remote location (page 3, paragraph 36).

58.   Claims 12 and 77 rejected under 35 U.S.C. 103(a) as being unpatentable over Pyhalammi

and Corts in view of Ellis et al, U.S. Patent Application Publication 2004/0194131 (hereinafter

Ellis).

59.   Ellis was cited in the last office action.

60.   As per claims 12 and 77, Pyhalammi and Corts taught the invention substantially as

claimed in claims 1 and 66 above. Although Pyhalammi taught processes information for

broadcasting encoded data content (page 2, paragraph 21; page 3, paragraph 25), however,

Pyhalammi and Corts did not teach zone information.   Ellis taught processes information

defining various time zones for broadcasting said encoded data content (page 10, paragraphs 139

and 140).

61.   It would have been obvious to one having ordinary skill in the art at the time of the

invention was made to combine the teachings of Pyhalammi, Corts, and Ellis because Ellis

teaching of defining zone information would increase the flexibility of Pyhalammi's and Corts's

systems by allowing data content to be presented to a user based on a defined schedule.

62.   Claims 19 and 84 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Pyhalammi and Corts in view of Thompson et al, U.S. Patent 6,907,247 (hereinafter Thompson).

63.   Thompson was cited in the last office action.

64.   As per claims 19 and 84, Pyhalammi and Corts taught the invention substantially as

claimed in claims 1 and 66 above. Pyhalammi and Corts did not teach a timer for tracking

timeout. Thompson taught a timer for tracking a predefined timeout for which transmission of

data content occurs (col. 4, lines 3-19).

65.   It would have been obvious to one having ordinary skill in the art at the time of the

invention was made to combine the teachings of Pyhalammi, Corts, and Thompson because

Thompson's teaching of a timer for tracking timeout would increase the efficiency of

Pyhalammi's and Corts's systems by allowing resources to be released by a user when a timeout

period has expired, hence the released resources can be allocated to other users.

66.   Claims 6-7 and 71-72 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Pyhalammi, Corts, and Hirayama in view of Lin et al, U.S. Patent Application Publication

2002/0146016 (hereinafter Lin).

67.   Lin was cited in the last office action.

68.   As per claims 6 and 71, Pyhalammi, Corts, and Hirayama taught the invention

substantially as claimed as in claims 4 and 69 above. Although Pyhalammi taught said broadcast

outbound queue transmitting data content to an external broadcasting network (pages 3-4,

paragraph 27), however, Pyhalammi did not teach transmitting data content to said sender of said

instructions. Lin taught network outbound queue transmitting data content to said sender of said

received instructions (140, fig. 6; page 4, paragraph 53).

69.   It would have been obvious to one having ordinary skill in the art at the time of the

invention was made to combine the teachings of Pyhalammi, Corts, Hirayama, and Lin because

Lin's teaching of queue for transmitting data content to said sender would increase the reliability

of their system by allowing packet to be queue in order to retransmit lost packets (page 4,

paragraph 53).

70.   As per claims 7 and 72, Pyhalammi, Corts, Hirayama and Lin taught the invention

substantially as claimed as in claims 6 and 71 above. Corts further taught an in-band on-channel

(IBOC) digital radio broadcast transmission (page 13, paragraph 304).

71.   As per claims 27-36 and 40, they fail to define the above and beyond claims (already

rejected claims 2, 3, 10 12-15, 18, 23 and 25).

72.   Claim 70 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pyhalammi,

Corts, and Hirayama in view of Garrity.

73.   As per claim 70, Pyhalammi, Corts, and Hirayama taught the invention substantially as

claimed in claim 69 above. Pyhalammi, Corts, and Hirayama did not teach an authenticator.

Garrity taught an authenticator for authenticating a sender of said instructions (col. 4, lines 46-

49).

74.   It would have been obvious to one having ordinary skill in the art at the time of the

invention was made to combine the teachings of Pyhalammi, Corts, Hirayama, and Garrity

because Garrity's teaching would increase the security of Pyhalammi's, Corts's, and Hirayama's

systems to prevent unauthorized sender to utilize their systems.

75.   Applicant's arguments with respect to claims 1-36, 39-40, and 65-89, filed 09/20/07 have

been considered but are moot in view of the new ground(s) of rejection.

76.   In the remarks, applicant argued that:

> (1)   Pyhalammi fails to teach said scheduler determining said broadcast
>
> times and schedule without user-selected input regarding transmission
>
> priority or delivery instructions.

(2)   One of ordinary skill in the art would not have found it obvious to modify the Pyhalammi system to use in-band on-channel (IBOC) digital radio broadcasting system as disclosed in Corts.

(3)   Claims 10, 17, 24, 75, 82 and 88 are not well-known in the art and request a reference in support of the "Official Notice"

77.   In response to point (1), Pyhalammi teaches determining broadcast time and schedule based on the auto-selected delivery class information, wherein the delivery class is linked to the content type automatically (page 3, paragraph 25). This means the delivery class is automatically selected based on the user selected content, hence no user-selected input regarding transmission priority or delivery instruction is required.

78.   In response to point (2), as stated above, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Pyhalammi and Corts because Corts's teaching of data processor for encoding data would allow Pyhalammi's system to utilize In-Band On-Channel (IBOC) technology to broadcast digitized data along with the digital audio to wireless devices. Specifically, Corts's teaching provides the ability for IBOC enabled wireless terminal device to interact with the broadcast, including purchase of goods and service by a user of the IBOC enabled wireless terminal device ([0021]). the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge

generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5

USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

Using the teaching of Corts, one of ordinary skill in the art can modify Pyhalammi's system by

programming Pyhalammi's system to transmit digital data over their current analog transmission

frequency (see Corts, [0002]), and providing cellular phones and computers with IBOC chips

sets (see Corts, [0021]), hence allowing a IBOC enabled device to IBOC technology to broadcast

digitized data along with the digital audio to wireless devices.

79.   In response to point (3), Peng, U.S. Patent 6,959,436 (col. 2, lines 33-39), Nations et al,

U.S. Patent 6,879,808 (col. 4, lines 27-31), Spurgat et al, U.S. Patent Application Publication

2002/0174269 ([0060] and [0077]) and Lee et al, U.S. Patent 6,829,475 are references supporting

the "Official Notice" taken for claims 10 and 75 above. Yasue et al, U.S. Patent 6,826396 (col.

8, lines 30-33) and Peng, U.S. Patent 6,959,436 (fig. 2A; col. 7, line 66-col. 8, line 3) are

references supporting the "Official Notice" taken for claims 17 and 82 above. Strentzsch et al,

U.S. Patent 6,256,671 (250, 260, 265, fig. 2; col. 5, line 54-col. 6, line 10) and Korus, U.S.

Patent 7,065,058 (col. 6, lines 30-34) are references supporting the "Official Notice" taken for

claims 24 and 88 above.

80.   A shortened statutory period for reply to this Office action is set to expire THREE

MONTHS from the mailing date of this action. Any inquiry concerning this communication or

earlier communications from the examiner should be directed to Philip C Lee whose telephone

number is (571)272-3967. The examiner can normally be reached on 8 AM TO 5:30 PM

Monday to Thursday and every other Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on (571) 272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

P.L.